IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.10444 of 2000

THURSDAY, THE TWENTY FIRST DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

Bavisetti Madhava Rao, S/o. late Suryanarayana,
Aged about 48 years, residing at Pedda Veedhi,
Bhogapuram (Post) Vizianagaram District.

… Petitioner

And

The Executive Officer, Gram Panchayat,
Bhogapuram (Post) Vizianagaram District.

… Respondent

Order:

In this Writ Petition, petitioner has questioned the proceedings dated 10-06-2000, issued by the respondent- Executive Officer, Gram Panchayat, Bhogapuram, Vizianagarm District, in Rc.No.42/000.

2. In the affidavit filed in support of the Writ Petition, it is stated that petitioner has obtained building permission from the respondent-local

authority on 26-06-1996 to build a house in a site admeasuring 12' X 35' with an open terrace. It is stated that for the purpose of approach to the open terrace, he has also constructed a staircase abutting the house. The case of the petitioner is that the respondent has issued the impugned proceedings directing him to remove the staircase, which is not in accordance with the provisions of the A.P. Panchayat Raj Act, 1994 (for short 'the Act') and the rules made thereunder. Primarily, the grievance of the petitioner is that the impugned proceedings, in which mandatory directions have been given for removal of the staircase within twenty-four hours therefrom, have been issued without giving any notice or opportunity to him.

3. This court, while admitting the Writ Petition, by order dated 19-06-2000, stayed the operation of the impugned proceedings pending further orders. Even though the Writ Petition is of the year 2000, no counter affidavit has been filed by the respondent and the interim order has been continuing all along.

4. A perusal of the impugned proceedings would indicate that the same has been issued without prior notice and opportunity to the petitioner. If the respondent was of the view that petitioner had made construction in deviation of the sanction plan, he ought to have given opportunity to the petitioner before issuing the impugned proceedings directing him to remove the structures. As much as the Writ Petition was filed in the year 2000 and in the absence of any counter affidavit controverting the allegations of the petitioner, I deem it a fit case to set aside the notice dated 10-06-2000, and it is accordingly set aside. The respondent is directed to issue prior notice and opportunity to the petitioner and pass appropriate orders.

5. The Writ Petition is allowed to the extent indicated above. No

order as to costs.

_____

JUSTICE R. SUBHASH REDDY.

June 21, 2007
MRR